

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302 (14) of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)) (“Act”), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of his intent to adopt the following amendments to chapter 65 of Title 17 of the District of Columbia Municipal Regulations (DCMR) (Pharmacists) in not less than thirty (30) days from the date of publication in the D.C. Register.

The purpose of the proposed amendments is to amend the requirement for pharmacy students to complete an additional independent pre-licensure practice in a pharmacy setting with the emphasis being on the distribution of medicines and prescriptions. The revisions will decrease the required number of hours to four hundred (400) and postpone implementation of this new requirement to begin with the graduating class of 2014. These amendments will also postpone the requirement for all individuals engaging in pre-licensure professional practice or working as a pharmacy intern in the District to be registered with the Board after entering the first professional year of college of pharmacy whether or not the hours will be counted toward the total requirement for licensure as a pharmacist. The increased requirements will be imposed for the first time on those students that are in the graduating class of 2014.

These rules were previously published as proposed rulemaking on May 22, 2009 at 56 DCR 4113. No written comments were received from the public in connection with this notice. However, the Board subsequently voted to amend the requirements. Therefore the rulemaking is being republished for an additional comment period.

Final rulemaking action to adopt this amendment shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:**17 DCMR Chapter 65, PHARMACISTS, is amended as follows:****Section 6502.5 is amended to read as follows:**

6502.5 Starting with the graduating Class of 2014, in addition to the requirements of § 6502.1(b) of this chapter, each applicant for a pharmacist license shall submit proof of having completed an additional four hundred (400) hours of independent pre-licensure practice in a pharmacy setting with the emphasis being on the distribution of medicines and prescriptions.

Section 6509.2 is amended to read as follows:

6509.2 Starting with the graduating Class of 2014, all individuals engaging in

pre-licensure professional practice or working as a pharmacy intern in the District shall register with the Board after entering the first professional year of a college of pharmacy whether or not the hours will be counted toward the total requirement for licensure as a pharmacist.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to Kenneth Campbell, General Counsel, the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to the authority set forth in section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)) (2007 Repl.), Mayor’s Order 98-140, dated August 20, 1998, the SafeRx Amendment Act of 2008, effective March 26, 2008 (D.C. Law 17-0131; 55 DCR 4462), and Mayor’s Order 2008-94, dated July 3, 2008, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 83 (Pharmaceutical Detailers) of Title 17 (Business, Occupations and Professions) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after the date of publication of this notice in the D.C. Register.

The purpose of this amendment is to amend the definition of the term “conference” to include a scientific or medical educational meeting or symposium accredited by a nationally recognized healthcare professional education accreditation body (e.g., the Accreditation Council for Continuing Medical Education, the Accreditation Council for Pharmacy Education, and the American Nurses Association) In addition, this amendment would allow an applicant for a pharmaceutical detailing license who is a healthcare professional holding an active license in good standing in the District to submit with his or her application a copy of his or her license in lieu of an official transcript.

An earlier version of these rules was published in the D.C. Register as a proposed rulemaking on June 26, 2009 at 56 DCR 5065. Written comments were received in connection with that notice from the Restaurant Association Metropolitan Washington and the Pharmaceutical Research and Manufacturers of America. The rulemaking was subsequently amended and is being published for an additional comment period. Additionally, § 8302 of Title 17, DCMR is being amended to allow healthcare professionals who hold an active license in good standing in the District to submit a copy of their license in lieu of an official transcript when applying for a pharmaceutical detailing license.

Chapter 83 (Pharmaceutical Detailers) of Title 17 (Business Occupations and Professions) of the DCMR is amended as follows:**Section 8302 is amended as follows:****8302 EDUCATIONAL REQUIREMENTS**

- 8302.1 Except as otherwise provided in this chapter, an applicant shall furnish proof satisfactory to the Board that the applicant is a graduate of an institution of higher education recognized by the Board in accordance with § 742 of the Act, D. C. Official Code § 3-1207.42 (2001).

- 8302.2 Except as provided in § 8302.3, an applicant shall submit an official certificate of graduation or a transcript in a sealed envelope from the institution of higher education to the Board with the completed application.
- 8302.3 An applicant who holds a health professional license for a profession which requires a degree, may submit a copy of the license in lieu of an official certificate of graduation or transcript as proof of having graduated from an institution of higher education recognized by the Board in accordance with § 742 of the Act, D. C. Official Code § 3-1207.42.
- 8302.4 The Board may grant a license to practice pharmaceutical detailing to an applicant who is a graduate of an institution of higher education from a foreign country, if the institution or education program was accredited by an accrediting body recognized by the Secretary of the United States Department of Education or the Council on Postsecondary Accreditation at the time the applicant graduated.
- 8302.5 If a document required by this chapter is in a language other than English, an applicant shall arrange for its translation into English by a translation service acceptable to the Board and shall submit a translation signed by the translator attesting to its accuracy.

Section 8399.1 is amended as follows:

The following terms and their ascribed meanings are amended to read as follows:

Conference - (1) A meeting, symposium, exposition, exhibit, convention, assembly, or like gathering, including meetings of a regional, national, or international professional association, society, or body, for the discussion of health-related issues consisting of multi-pharmaceutical company or labeler representation and targeting a regional, national, or international audience; or (2) a scientific or medical educational meeting or symposium that is accredited by a nationally recognized healthcare professional education accreditation body (e.g., the Accreditation Council for Continuing Medical Education, the Accreditation Council for Pharmacy Education, and the American Nurses Association).

Applicant- A person applying for a license to practice pharmaceutical detailing under this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to Kenneth Campbell, General Counsel, the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 19(a)(3) of the District of Columbia Pharmacist and Pharmacy Regulation Act of 1980, effective September 16, 1980 (D.C. Law 3-98; D.C. Official Code § 47-2885.18(a)(3)); section 301 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981, (D.C. Law 4-29; D.C. Official Code § 48-903.01); Mayor's Order 98-48, dated April 15, 1998 98-48 delegates the Mayor's authority under Pharmacist Act]; section 4902 of the Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001, (D.C. Law 14-28; D.C. Official Code § 7-731); section 15 of the District of Columbia Drug Manufacture and Distribution Licensure Act of 1990, effective June 13 1990, (D.C. Law 8-137; D.C. Official Code § 48-714(a)); and Mayor's Order 98-88, dated May 29, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 19 (Pharmacies) of Title 22 (Public Health and Medicine) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

The purpose of these amendments is to enable the Director to delegate staff, as he deems appropriate, to perform the inspection functions required under this chapter.

The following rulemaking action is proposed:**CHAPTER 19 (PHARMACIES) is amended as follows:****Section 1925.3 is amended to read as follows:**

1925.3 The Director may delegate to staff of the Department the authority to conduct inspections of pharmacy operations covered by this chapter. Inspections shall be conducted upon the issuance of a new license and at least annually thereafter. Inspections may be conducted more frequently as often as the Director deems necessary or useful.

Section 1925.5 is amended to read as follows:

1925.5 The Director may delegate to staff of the Department the authority to conduct compliance inspections, audits, and other inspections required under the Act to ensure accountability for all controlled substances and to ensure compliance with laws regulating the practice of pharmacy and the distribution of prescription drugs and devices in the District and all other applicable laws and regulations regarding the practice of pharmacy and the operation of a pharmacy.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Kenneth Campbell, General Counsel, the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKINGET00-2 IN THE MATTER OF POTOMAC ELECTRIC POWER COMPANY'S
PUBLIC SPACE OCCUPANCY SURCHARGE ELECTRICITY TARIFF, P.S.C.-
D.C. No. 1

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code,¹ of its intent to act upon the Potomac Electric Power Company's ("Pepco" or "Company") Rider "PSOS" - Public Space Occupancy Surcharge ("Application")² in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. D.C. Official Code Section 10-1141.06 states that "[e]ach public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement." On January 29, 2010, Pepco filed an updated Rider PSOS that proposes to amend the following tariff page:

ELECTRICITY TARIFF, P.S.C.-D.C. No. 1
10th Revised Page No. R-33

3. Pepco states that its calculations reflect an over-collection in the amount of \$170,052 resulting in a decrease of the Rider PSOS surcharge rate from \$0.00226 per kilowatt hour to \$0.00183 per kilowatt hour, an adjustment of 19.3 percent.³ In addition, Pepco states that its "updated Rights-of-Way surcharge is to become effective with meter readings on and after March 1, 2010."⁴ The Commission does not intend to prevent the Company from implementing its filed surcharges. However, if the Commission discovers any inaccuracies, Pepco could be subject to reconciliation of the surcharges.

¹ D.C. Code § 2-505 (2001 Ed.).

² *ET00-2, In The Matter Of Potomac Electric Power Company's Public Occupancy Surcharge Electricity Tariff, P.S.C.-D.C. No. 1*, Letter to Dorothy Wideman, Commission Secretary, from Deborah M. Royster, Deputy General Counsel, re: *Rider "PSOS"*, filed January 29, 2010 (hereinafter referred to as "Application").

³ *ET00-2*, Application at 2.

⁴ *Id.* at 1.

4. This Application may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's web site at www.dcpsec.org. Copies of the tariff are available upon request, at a per-page reproduction cost.

5. Comments on the Application must be made in writing to Dorothy Wideman, Commission Secretary, at the above address. All comments must be received within 30 days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days of the date of publication of this NOPR in the *D.C. Register*. Once the comment period has expired, the Commission will take final rulemaking action on Pepco's Application.

DEPARTMENT OF PUBLIC WORKS**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Public Works, pursuant to the authority set forth in sections 18 and 20 of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Official Code §§ 8-1017 and 8-1018), section 8(b)(3) of the District of Columbia Litter Control Administration Act of 1986, effective March 25, 1986 (D.C. Law 6-100; D.C. Official Code § 8-807(b)(3)), and Mayor's Order 2008-157, dated November 20, 2008, hereby gives notice of intent to adopt the following rules in not less than thirty (30) days from the publication of this notice in the *D.C. Register* and upon completion of the forty-five (45) day period of Council review if the Council does not act earlier to adopt a resolution approving the proposed amendments. These rules would amend Chapter 20, Title 21 of the *District of Columbia Municipal Regulations* to add cardboard and plastic to the materials to be recycled, alter the requirements governing commercial recycling, and amend the fines applicable to violations of the District of Columbia's recycling laws and regulations. An earlier version of these proposed rules was published in the *D.C. Register* on July 31, 2009 at 56 DCR 6064; these proposed rules amend the fine schedule applicable to residential condominium buildings, residential cooperative buildings, apartment buildings, and commercial buildings included in those earlier published proposed rules.

Chapter 20 of Title 21 (D.C. Solid Waste Management and Multi-Material Recycling), of the District of Columbia Municipal Regulations is amended as follows:

Section 2000.1 is amended to read as follows:

2000.1 The purpose of this chapter is to establish minimum standards for the separation, collection, and recycling in the District of Columbia of newspaper, office paper, yard waste, metals, glass, paperboard, cardboard, plastics, and other commodities.

Section 2000.4. is amended to read as follows:

2000.4 Each day on which a violation occurs shall be a separate offense and the penalties described in this section shall apply to each separate offense.

Sections 2001, 2002, and 2003 are amended to read as follows:

**2001 RESIDENTIAL SOURCE SEPARATION OF PAPER,
PAPERBOARD, AND CARDBOARD**

- 2001.1 All owners and occupants of buildings authorized to receive District collection services in accordance with § 2010 shall separate paper, paperboard, and cardboard from household trash prior to setting it out for collection.
- 2001.2 A separate collection of paper, paperboard, and cardboard shall occur in accordance with a schedule determined by the Department of Public Works ("DPW").
- 2001.3 Paper, paperboard, and cardboard shall be placed at the DPW designated point of collection for recyclables.
- 2001.4 Paper, paperboard, and cardboard shall be set out no later than 7:00 a.m. on the scheduled day of collection and no earlier than 6:30 p.m. on the day before the scheduled collection.
- 2002 PREPARING PAPER, PAPERBOARD, AND CARDBOARD FOR COLLECTION**
- 2002.1 Owners and occupants shall separate paper, paperboard, and cardboard from their general household solid waste and set it out for recycling.
- 2002.2 Paper, paperboard, and cardboard shall be placed in recycling bins approved by the Director or in bins of a similar size and shape and with similar handles. These materials may be placed in the same recycling bin as metal food and beverage containers, glass food and beverage containers, and plastic containers placed out for recycling.
- 2002.3 Contaminated or soiled paper, paperboard, or cardboard shall not be separated from general household waste and shall not be placed out for recycling purposes.
- 2003 RESIDENTIAL SOURCE SEPARATION OF CONTAINERS**
- 2003.1 All owners and occupants of buildings authorized to receive District collection services in accordance with § 2010 of this chapter shall separate the following containers from household trash before setting the trash out for collection: metal food and beverage containers, glass food and beverage containers, and plastic containers.
- 2003.2 Containers identified in section 2003.1 shall be placed in recycling bins approved by the Director or in bins of a similar size and shape and with similar handles.
- 2003.3 Containers identified in section 2003.1 shall be placed into a

recycling bin set for collection by the District in a manner specified by the Director.

- 2003.4 Containers identified in subsection 2003.1 shall be set out for collection by the District at the location for collection of recyclables specified by the Director.
- 2003.5 Containers identified in subsection 2003.1 shall be set out in a recycling bin for collection by the District no later than 7:00 a.m. on the scheduled day of collection and no earlier than 6:30 pm. on the day before the scheduled collection.
- 2003.6 Only containers identified in subsection 2003.1, and paper, paperboard, and cardboard shall be placed into a recycling bin set out for collection by the District.
- 2003.7 The containers identified in subsection 2003.1 shall be collected in accordance with a schedule determined by the Director.

Section 2004 is repealed.

Section 2021.2 is amended to read as follows:

- 2021.2 Each owner of a commercial property shall be responsible for the separate removal of recyclable material by a registered recycling hauler or pursuant to an approved self-implementation plan. The owner may provide through a lease agreement for an occupant to be responsible for its own solid waste removal, in which case the occupant shall also be responsible for the separate removal of recyclable material, unless otherwise provided for in the lease agreement. Notwithstanding the existence of such a lease agreement, the owner is responsible for complying with these regulations except where the Director determines that there are circumstances that warrant holding the occupant liable for compliance. The Director may issue a notice of violation to the occupant or to the owner.

Section 2021.3 is amended to read as follows:

- 2021.3 Each owner of commercial property shall, at least once a year, notify any tenants or occupants of the property of the legal requirement that certain materials be separated for recycling, the types of materials to be separated, how and where recyclables shall be taken in order to be collected for recycling, and the name and contact information of any recycling coordinator for the property.

Section 2021.4 is amended to read as follows:

2021.4 Each owner of commercial property shall post and maintain at least one (1) sign where solid waste is collected or stored that sets forth what materials are required to be source separated and states the collection procedures for such materials, and shall post at least one (1) sign at containers where recyclables are collected stating what materials may properly be placed in them. The owner may provide through the lease agreement that an occupant shall also be responsible for posting and maintaining such signs, in which case the occupant shall also be responsible for meeting the requirements of this subsection. Notwithstanding the existence of such a lease agreement, the owner is responsible for complying with this regulation except where the Director determines that there are circumstances that warrant holding the occupant liable for compliance. The Director may issue a notice of violation to the occupant or to the owner.

Sections 2021.5 through 2021.8 are repealed.

Section 2022.1 is amended to read as follows:

2022.1 Each owner and each occupant of a commercial property shall, at a minimum, separate for recycling paper, paperboard, cardboard, and clean and rinsed metal, glass and plastic containers. The materials that are separated for recycling shall be stored in bins, dumpsters, or other containers that are not used for the simultaneous storage of solid waste and recyclable materials. The owner may provide through a lease agreement for an occupant to be responsible for separating these materials for recycling in which case the occupant shall also be responsible for meeting the requirements of this subsection. Notwithstanding the existence of such a lease agreement, the owner is responsible for complying with this regulation except where the Director determines that there are circumstances that warrant holding the occupant liable for compliance. The Director may issue a notice of violation to the occupant or to the owner.

Section 2022.2 is repealed.

Section 2036.2 is amended to read as follows:

2036.2 Any occupant or property owner may file an application for waiver with the Director.

Section 2037.1 is amended to read as follows:

2037.1 Recyclable materials shall be stored in compliance with applicable fire code requirements.

New section 2038.2 is added to read as follows:

- 2038.2 After materials are placed out for collection by a recycling hauler, the materials shall not be removed by anyone other than the hauler.

Section 2050.1 is amended to read as follows:

- 2050.1 Each person, organization, or agent engaged in the business of collecting or processing recyclable materials shall register with the Director. The fee for registration shall be fifty dollars (\$50) and shall be paid annually, except that if the entity that is applying for registration owns or operates vehicles used for recycling collection, each vehicle shall also be registered and the fee shall be fifty dollars (\$50) per vehicle. This license is in addition to any license required by § 710.

Section 2050.5 is amended to read as follows:

- 2050.5 After the Director determines that the requirements for registering a vehicle have been satisfied, the Director shall provide two (2) stickers indicating the vehicle registration number to all registered vehicles.

New sections 2050.9 and 2050.10 are added to read as follows:

- 2050.9 Any entity that applies to be a registered recycling collector shall possess all required District government licenses, including any required Basic Business License and, to the extent that it operates at real property in the District of Columbia, its operations shall comply with District of Columbia land use requirements.
- 2050.10 An entity registered pursuant to § 2050.9 shall continue to maintain required licenses and to comply with applicable land use requirements while registered as a recycling collector. If a recycling collector fails to comply with this provision the Director may, in addition to taking any other authorized action, immediately suspend or revoke the recycling collector's registration.

Section 2051 is amended to read as follows:**2051 QUARTERLY REPORTING**

- 2051.1 Each person or business engaged in the collection or recycling of recyclables, as defined in § 2050, shall be required to submit quarterly reports and corresponding certified scale tickets to the D.C. Office of Recycling verifying the tonnage of recyclable materials collected by commodity.

- 2051.2 Each person or business removing recyclables under an approved self-implementing plan, as provided in § 2021, shall be required to submit quarterly reports and corresponding scale tickets to the D.C. Office of Recycling verifying the tonnage of recyclable materials collected by commodity.
- 2051.3 Quarterly reports shall be submitted by the fifteenth (15th) day of the month following the end of a quarter (e.g., recyclables collected in the months of January through March must be recorded in a report received by April 15th).
- 2051.4 Reporting forms shall be obtained from the D.C. Office of Recycling.

Sections 2052.3 and 2052.4 are amended to read as follows:

- 2052.3 If the Director finds that any recycling collector, solid waste hauler, or an agent of either, violates any provision of this section, the Director may (in addition to any other remedy available), deny the hauler or its agent access to the District of Columbia's solid waste facilities for a period not to exceed thirty (30) days for each violation.
- 2052.4 If the Director finds that a recycling collector has committed three (3) or more violations of this chapter within a twelve (12) month period, the Director may (in addition to any other remedy available) suspend the collector's registration for up to twelve (12) months.

New sections 2052.5 and 2052.6 are added to read as follows:

- 2052.5 If the Director finds that a recycling collector has committed six (6) or more violations of this chapter within a twelve (12) month period, the Director may (in addition to any other remedy available) revoke the recycling collector's registration.
- 2052.6 A recycling collector shall maintain a copy of each day's recycling collection route and a list of customers served, and provide a copy to the Director within two business days after the Director requests the list.

New section 2053 is added to read as follows:

2053 HAULING

- 2053.1 A recycling hauler shall not simultaneously transport recyclables along with other materials for disposal in the same vehicle at the same time except pursuant to a written waiver of this requirement.

- 2053.2 A written waiver shall only be issued to a registered recycling hauler if the hauler demonstrates to the Director that the recyclables will be transported in a vehicle that does not compress or compact its contents. The hauler shall also demonstrate that the method used for simultaneously transporting the materials ensures that recyclables will not be commingled with non-recyclable materials and that the recyclables will not be disposed of in any way other than by recycling.
- 2053.3 The Director may revoke a written waiver if the Director finds that the conditions for receiving a waiver are not being met.

Section 2061.1 is amended by inserting the phrase "listed below" after the word "chapter" and by deleting all of the text after the phrase

"Overweight bundles or bags of newspaper (21 DCMR § 2002.2)". 25

New subsections 2061.2, 2061.3, and 2061.4 are added to read as follows:

- 2061.2 For each of the violations listed below occurring at a residential condominium, apartment building, or residential cooperative, the schedule of fines set out in this subsection shall apply:

VIOLATION

Failure to arrange for proper removal of recyclables
(21 DCMR § 2021.2)

Failure to notify tenants/occupants of recycling requirements and program
(21 DCMR 2021.3)

Failure to post recycling signs
(21 DCMR § 2021.4)

Failure to separate recyclables from other solid waste
(21 DCMR § 2022.1)

Insufficient collection of recyclables
(21 DCMR § 2022.3)

Failure to have a sufficient number of containers for separated recyclables
(21 DCMR § 2022.4)

Failure to maintain containers for recyclables properly
(21 DCMR § 2022.5)

FINE SCHEDULE

1 st Offense:	\$ 200
2 nd Offense (within 60 days):	\$ 600
3 rd Offense (within 60 days):	\$ 1,500

- 2061.3 For each of the violations listed below occurring at a commercial building other than a residential condominium or cooperative, or at an apartment building, the fines set out below in this subsection shall apply:

VIOLATION

Failure to arrange for proper removal of recyclables
(21 DCMR § 2021.2)

Failure to notify tenants/occupants of recycling requirements and program
(21 DCMR 2021.3)

Failure to post recycling signs
(21 DCMR § 2021.4)

Failure to separate recyclables from other solid waste
(21 DCMR § 2022.1)

Insufficient collection of recyclables
(21 DCMR § 2022.3)

Failure to have a sufficient number of containers for separated recyclables
(21 DCMR § 2022.4)

Failure to maintain containers for recyclables properly
(21 DCMR § 2022.5)

FINE SCHEDULE

1 st Offense:	\$ 200
2 nd Offense (within 60 days):	\$ 600
3 rd Offense (within 60 days):	\$ 1,500

- 2061.4 For each of the violations listed below, the fines set out below in this subsection shall apply:

VIOLATION

Failure to have a valid recycling registration
(21 DCMR § 2050.1)

Failure to display recycling registration sticker properly
(21 DCMR § 2050.6)

Failure to provide for recycling of all materials collected for recycling purposes
(21 DCMR § 2050.8)

Failure to provide quarterly reports
(21 DCMR § 2051.1)

Failure of self-implementers to provide monthly reports
(21 DCMR § 2051.2)

Failure to provide timely quarterly reports
(21 DCMR § 2051.3)

Depositing recyclables at a District solid waste facility without approval from the Director
(21 DCMR § 2052.1)

Hauling recyclable materials mixed with trash delivered to a District solid waste disposal facility
(21 DCMR § 2052.2)

Recycling businesses must provide a copy of route and customers and provide to Director on request
(21 DCMR § 2052.6)

Simultaneous transporting of recyclables with other materials
(21 DCMR § 2053.1)

FINE SCHEDULE

1 st Offense:	\$ 500
2 nd Offense (within 60 days):	\$ 1,000
3 rd Offense (within 60 days):	\$ 2,000

Section 2099.1 is amended as follows:

By amending the definition of “Director” to read as follows:

Director - the Director of the Department of Public Works (or its successor agencies) or his or her designee.

By inserting after the definition of “Other Commercial Business” the following definitions:

Owner - the record owner of a property except that, for a condominium, the owner shall be the condominium association for that property.

Paper- newspapers, glossy magazines, coupons, office paper, advertisements, telephone directories, books, envelopes that do not have plastic address windows, brochures and other similar paper items.

Plastic- narrow necked plastic bottles.

Comments on these proposed regulations should be submitted, in writing, to Christine V. Davis, General Counsel, Department of Public Works, 2001 14th St, N.W., 6th Floor, Washington, D.C. 20009, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these proposed regulations are available from this address.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 09-10

(Text Amendment – 11 DCMR)

(Water Tower on the Saint Elizabeths East Campus)

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under §§ 1, 3, and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 798, and 799; D.C. Official Code §§ 6-641.01, 6-641.03, and 6-641.07), hereby gives notice of its intent to add a new § 2523 to the Zoning Regulations (Title 11 DCMR) to authorize the establishment of a water tower or elevated water tank (“Water Tower”) owned and operated by the District of Columbia Water and Sewer Authority on unzoned property owned by the District of Columbia and located on the East Campus of Saint Elizabeths Hospital.

The Commission also proposes to amend § 106.7 to exempt the Water Tower from the prohibition against the issuance of building permits and certificates of occupancy for structures on unzoned land. In addition, the Commission proposes to amend § 3043.1(a), which exempts District agencies from the payment of fees to address a scenario where the property is not owned by the District or one its agencies, but is under one or both of their jurisdiction. Lastly, conforming amendments are proposed to be made to §§ 3011, 3014, 3015, 3022, and 3027 of the Zoning Commission Procedures Rules of Practice and Procedure, also in Title 11.

Final rulemaking action shall be taken in not less than 30 days from the date of publication of this notice in the *D.C. Register*.

DCMR Title 11, ZONING, is proposed to be amended as follows:

- A. Chapter 1, THE ZONING REGULATIONS, § 106, ZONING MAP, § 106.7, is amended by inserting the phrase “except for the water tower and related water utility facilities authorized by § 2523”, so that the provision will read as follows:

106.7 No building permit or certificate of occupancy shall be issued nor proceeding instituted before the Board of Zoning Adjustment, nor shall any property in private ownership be used for any purpose until after the Zoning Commission has designated zoning for the property, except for the water tower and related water utility facilities authorized by § 2523.

- B. Chapter 25, MISCELLANEOUS ZONING REQUIREMENTS, is amended by adding a new § 2523, to read as follows:

2523 WATER TOWER ON THE EAST CAMPUS OF SAINT ELIZABETHS:

2523.1 Notwithstanding any other provision of this Title, a water tower or elevated water tank (“Water Tower”) owned and operated by the District of Columbia Water and Sewer Authority may be established on unzoned property owned by the District of Columbia and located on the East Campus of Saint Elizabeths Hospital.

- 2523.2 No building permit to construct a Water Tower in excess of ninety (90) feet in height may be issued unless the Zoning Commission finds that said tower, as designed, meets the standards of § 3104 and is not inconsistent with the Comprehensive Plan, small area plan(s), and other adopted planning studies that pertain to the site.
- 2523.3 An application pursuant to § 2523.2 shall include such plans and illustrations necessary to adequately represent the final proposed appearance of the tower, including its materials, final elevation, and location on the East Campus. The application shall also identify how the proposed design meets the standard for approval set forth in § 2523.2.
- 2523.4 An application shall be included as a “Final Action” item for a Zoning Commission meeting scheduled after the completion of the thirty (30) day review period allowed the affected ANC(s). The notice to the affected ANC(s) shall include the date of the final action and a tentative public hearing date.
- 2523.5 The only motion that can be made at that time is for approval of the application in accordance with § 3028 and without the need for a public hearing.
- 2523.6 If no motion is made, or if the motion fails, the matter shall be moved to the “Hearing Actions” portion of the agenda, at which point the Commission may take any of the actions authorized by §§ 3011.3 through 3011.6.
- 2523.7 The Office of Planning may submit a report as to whether the Commission should approve the application. Any such report should be filed no later than ten (10) days prior to the date of the public meeting at which the final action item will be considered.
- 2523.8 A request to modify an approved designed shall be subject to the same review criteria and approval process as set forth in this section for the original application.

C. Chapter 30, ZONING COMMISSION PROCEDURES RULES OF PRACTICE AND PROCEDURE, is amended as follows:

1. Section 3011, REVIEW AND PROCESSING OF APPLICATIONS AND PETITIONS, § 3011.1, is amended by inserting the phrase “Except as provided in § 2523.4,” at its beginning, so that the provision will read as follows:
 - 3011.1 Except as provided in § 2523.4, as soon as an application or petition is accepted for filing by the Director of the Office of Zoning, the Director shall place a copy of the application or petition in the public record of the Commission and refer a copy to the D.C. Office of Planning for review and recommendation on whether the matter

should be processed further, except that the applications for Zoning Commission review and approval filed pursuant to Chapters 16, 18, and 28 of this Title, which are deemed complete by the Director, shall be immediately scheduled for hearing consistent with the notice provisions of this chapter. The exception from the requirements of this subsection shall not apply to an application for Zoning Commission approval pursuant to § 1606 unless accompanied by a written report of the Office of Planning certifying that the application is compliant with the standards of that section.

2. Section 3014, NOTICE OF HEARINGS: GENERAL, § 3014.1, is amended by inserting the phrase “, other than a hearing for a § 2523 application,”, so that the provision will read as follows:

3014.1 Notice of a hearing pursuant to the rulemaking provisions of § 3021 or the contested case provisions of § 3022, other than a hearing for a § 2523 application, shall be given by:

- (a) Publishing notice of the hearing in the D.C. Register at least forty (40) days in advance of the hearing;
- (b) Posting a copy of the notice of the public hearing in the Office of Zoning at least forty (40) days prior to the hearing; and
- (c) Providing copies of the notice of the public hearing to the public library system and the appropriate Advisory Neighborhood Commission(s) for posting in appropriate locations. These copies of the notice shall be mailed or delivered at least forty (40) days prior to the hearing.

3. Section 3015, NOTICE OF CONTESTED CASE HEARINGS, § 3015.1, is amended by inserting the phrase “, other than a hearing for a § 2523 application,” in its place, so that the provision will read as follows:

3015.1 Notice of a contested case hearing pursuant to § 3022, other than a hearing for a § 2523 application, shall be given in accordance with § 3014 and the additional requirements of this section.

4. Section 3022, CONTESTED CASE HEARINGS, § 3022.1, is amended by striking the phrase “as well as § 1709.21” and inserting the phrase “as well as §§ 1709.21 and 2523.2.” so that the provision will read as follows.

3022.1 The contested case procedures in § 10 of the D.C. Administrative Procedure Act, D.C. Official Code § 2-509, and this section shall apply to applications for a change in the Zoning Map pursuant to § 102 and to applications for planned unit developments, air space

developments, and similar plan review activities of the Commission, including those required by Chapters 16, 18, and 28 of this Title, as well as §§ 1709.21 and 2523.2, except as otherwise provided in § 3010.7.

5. Section 3027, PROPOSED ACTION, § 3027.4, is amended to read as follows:

3027.4 The Commission need not take proposed action with respect to an application for Zoning Commission review and approval pursuant to Chapters 16, 18, and 28 of this Title, as well as §§ 1709.21 and 2523.2, but may take final action in accordance with § 3028, either at the close of the hearing or at a subsequent public meeting and, in the case of an application pursuant to § 2523, at the initial public meeting regarding the application.

6. Section 3043, EXEMPTION FROM FEES, § 3043.1 is amended by striking the phrase “is owned by that agency” from paragraph (b) and inserting the phrase “is owned by the District or that agency or is under one or both of their jurisdictions” in its place, so that the provision will read as follows:

3043.1 The following persons or groups shall not be required to pay either a filing fee or hearing fee:

- (a) A department, office, or agency of the government of the District of Columbia, where the property is owned by the District or that agency or is under one or both of their jurisdictions and the property is to be used for a government building or use; and
- (b) The National Capital Planning Commission.

3043.2 There shall be no fee required for the filing of a petition before the Commission.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.